

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ROY TYRRELL,

Plaintiff,

-v.-

9: 05-CV-0080
(TJM)(RFT)

GLENN S. GOORD, Commissioner; KENNETH S.
PERLMAN, Superintendent; DAN LUTZ, IGP Supervisor;
ANN BYERWALTERS, Senior Counselor; MR. RENA,
Counselor; MR. RIOS, Counselor; DAVID KELEFANT,
IGP Supervisor; NANCY HULIHAN, ADSP; SUSAN
NEAFACH, Counselor,

Defendants.

APPEARANCES:

ROY TYRRELL

Plaintiff, *pro se*

03-B-1600

Gowanda Correctional Facility

P.O. Box 311

Gowanda, NY 14070-0311

THOMAS J. MCAVOY, SENIOR DISTRICT JUDGE

ORDER

Presently before the Court is an amended complaint submitted by Roy Tyrrell ("plaintiff"). Dkt. No. 12. The amended complaint was submitted by plaintiff in compliance with the Order of this Court filed on March 9, 2005. Dkt. No. 8 ("March Order").

In his amended complaint plaintiff alleges that defendant Neafach falsified plaintiff's records and had plaintiff removed from the Chemical Dependency/Sex Offender Program ("CD/SOP") in retaliation for plaintiff's having filed grievances. Dkt. No. 12 at ¶¶ 14-21.¹ In

¹ Plaintiff's amended complaint is missing paragraphs numbered 5-13, but otherwise appears to be complete.

addition, plaintiff alleges, *inter alia*, that defendant Rena falsified plaintiff's records (*id.* at ¶ 24); defendant Byerwalters denied plaintiff due process in removing him from the CD/SOP program and transferred plaintiff to another facility in retaliation for plaintiff's filing of grievances (*id.* at ¶¶ 25-26); defendant Lutz falsified plaintiff's records (*id.* at ¶27); and defendant Hulihan denied plaintiff due process at plaintiff's Time Allowance Committee hearing (*id.* at ¶ 29).

Since the amended complaint filed by plaintiff appears to cure the defects that existed in his prior complaint, it may properly be filed with the Court.

WHEREFORE, it is hereby

ORDERED, that the Clerk shall issue summonses and forward them, along with copies of the amended complaint, to the United States Marshal for service upon the defendants, together with a copy of this Order. The Clerk shall also forward a copy of the summons and amended complaint by mail to the Office of the Attorney General for the State of New York, together with a copy of this Order, and it is further

ORDERED, that a formal response to plaintiff's complaint be filed by the defendants or their counsel as provided for in the Federal Rules of Civil Procedure subsequent to service of process on the defendants, and it is further

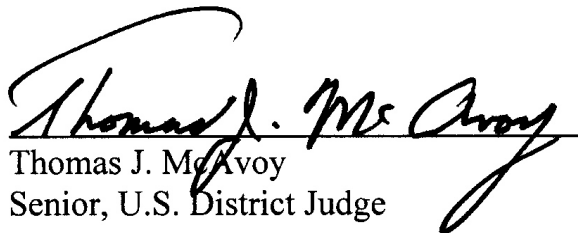
ORDERED, that all pleadings, motions and other documents relating to this action shall be filed with the Clerk of the United States District Court, Northern District of New York, 7th Floor, Federal Building, 100 S. Clinton St., Syracuse, New York 13261-7367.

Any paper sent by a party to the Court or the Clerk shall be accompanied by a certificate setting forth the date a true and correct copy of it was mailed to all

opposing parties or their counsel. Any letter or other document received by the Clerk or the Court which does not include a proper certificate of service is to be returned without processing. Plaintiff shall also comply with any requests by the Clerk's Office for any documents that are necessary to maintain this action. Motions must comply with Local Rule 7.1 of the Northern District of New York and are to be made returnable before the assigned Magistrate Judge on any business day with proper allowance for notice as required by the Rules. **Plaintiff is also required to promptly notify the Clerk's Office of any change in his address; his failure to do this will result in the dismissal of this action.** All motions will be decided on submitted papers, without oral argument, unless otherwise ordered by this Court, and it is further

ORDERED, that the Clerk serve a copy of this Order on the plaintiff by regular mail.

Dated: June 13, 2005


Thomas J. McAvoy
Senior, U.S. District Judge